

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

GEORGE DOUGLAS METZ, II ,

Plaintiff,

v.

Case No.: 2:20-cv-70-FtM-38NPM

RANDALL STERLING and
CHARLOTTE COUNTY
GOVERNMENT,

Defendants.

_____ /

OPINION AND ORDER¹

Before the Court is a letter from Plaintiff George Metz ([Doc. 12](#)), which the Court interprets as a motion to vacate the judgment. The Court dismissed this case because Metz failed to timely serve Defendants under [Federal Rule of Civil Procedure 4](#) and did not show good cause for the failure. Metz's letter states that he left the state in early March—a month after filing his Complaint—to “wait out” the coronavirus pandemic. Metz prepared a summons for each Defendant after returning to Florida in June—too late to timely serve Defendants.

[Federal Rule of Civil Procedure 60\(b\)\(1\)](#) allows courts to relieve parties from final judgment for “mistake, inadvertence, surprise, or excusable neglect.” But a mere lack of diligence is not enough. [Aguiar-Carrasquillo v. Agosto-Alicea](#), 445 F.3d 19, 28 (1st Cir. 2006). Metz had ample time to serve Defendants before he left town, and he could have

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served Defendants by mail from outside the state. The Court finds no good cause to vacate the Judgment.

Accordingly, it is now

ORDERED:

Plaintiff George Metz's letter, interpreted as a motion to vacate the judgment, ([Doc. 12](#)) is **DENIED**.

DONE and **ORDERED** in Fort Myers, Florida this 16th day of July, 2020.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record